

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

YOVANY PADILLA

VS.

PNC BANK, NATIONAL ASSOCIATION

Civil Action No. 1:18-cv-00131-WES-PAS

**ANSWER OF PNC BANK, NATIONAL ASSOCIATION  
TO PLAINTIFF'S COMPLAINT**

PNC Bank, N.A., ("PNC") hereby answers the Plaintiff, Yovany Padilla's ("Plaintiff") Complaint, paragraph by paragraph as follows:

1. PNC is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 1 of the Plaintiff's Complaint.
2. PNC admits the allegations contained in paragraph 2 of the Plaintiff's Complaint.
3. PNC states that the document referenced in paragraph 3 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.
4. PNC states that the document referenced in paragraph 4 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

5. PNC can neither admit nor deny the allegations contained in paragraph 5 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

6. PNC denies the allegations continued in paragraph 6 of the Plaintiff's Complaint.

7. PNC can neither admit nor deny the allegations contained in paragraph 7 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC admits the allegations.

8. PNC states that the document referenced in paragraph 8 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

9. PNC states that the document referenced in paragraph 9 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

10. PNC states that the document referenced in paragraph 10 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

11. PNC can neither admit nor deny the allegations contained in paragraph 11 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegation.

12. PNC states that the document referenced in paragraph 12 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

13. PNC can neither admit nor deny the allegations contained in paragraph 13 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

14. PNC denies the allegations contained in paragraph 14 of the Plaintiff's Complaint.

15. PNC denies the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16. PNC can neither admit nor deny the allegations contained in paragraph 16 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

17. PNC can neither admit nor deny the allegations contained in paragraph 17 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

18. PNC can neither admit nor deny the allegations contained in paragraph 18 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

18. [sic] PNC denies the allegations contained in paragraph 18 [sic] of the Plaintiff's Complaint.

19. PNC denies the allegations contained in paragraph 19 of the Plaintiff's Complaint.

20. PNC admits the allegations contained in paragraph 20 of the Plaintiff's Complaint.

21. PNC denies the allegations contained in paragraph 21 of the Plaintiff's Complaint.

22. PNC denies the allegations contained in paragraph 22 of the Plaintiff's Complaint.

23. PNC denies the allegations contained in paragraph 23 of the Plaintiff's Complaint.

24. PNC denies the allegations contained in paragraph 24 of the Plaintiff's Complaint.

25. PNC denies the allegations contained in paragraph 25 of the Plaintiff's Complaint.

26. PNC can neither admit nor deny the allegations contained in paragraph 26 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

27. PNC can neither admit nor deny the allegations contained in paragraph 27 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

28. PNC can neither admit nor deny the allegations contained in paragraph 28 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

29. PNC can neither admit nor deny the allegations contained in paragraph 29 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

30. PNC can neither admit nor deny the allegations contained in paragraph 30 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

31. PNC states that the document referenced in paragraph 31 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

32. PNC states that the document referenced in paragraph 32 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

WHEREFORE, PNC requests that Judgment enter in its favor and that the Plaintiff's Complaint should be dismissed.

**COUNT I  
BREACH OF CONTRACT AND FAILURE TO COMPLY WITH  
CONDITIONS PRECEDENT TO EXERCISE THE STATUTORY POWER  
OF SALE BY NOT COMPLYING WITH THE REGULATIONS OF THE  
SECERTARY OF HOUSING AND URBAN DEVELOPMENT WHICH  
APPLY TO PLAINTIFF'S FHA MORTGAGE**

33. PNC repeats and reavers the responses to Paragraphs 1 through 32 as if set forth fully herein.

34. PNC states that the document referenced in paragraph 34 of the Plaintiff's Complaint speaks for itself and thus no answer is required; to the extent that a response is required, PNC is without sufficient knowledge or information to admit or deny the allegations.

35. PNC denies the allegations contained in paragraph 35 of the Plaintiff's Complaint.

36. PNC denies the allegations contained in paragraph 36 of the Plaintiff's Complaint.

37. PNC denies the allegations contained in paragraph 37 of the Plaintiff's Complaint.

38. PNC denies the allegations contained in paragraph 38 of the Plaintiff's Complaint.

39. PNC denies the allegations contained in paragraph 39 of the Plaintiff's Complaint.

40. PNC denies the allegations contained in paragraph 40 of the Plaintiff's Complaint.

41. PNC denies the allegations contained in paragraph 41 of the Plaintiff's Complaint.

42. PNC denies the allegations contained in paragraph 42 of the Plaintiff's Complaint.

43. PNC denies the allegations contained in paragraph 43 of the Plaintiff's Complaint.

44. PNC denies the allegations contained in paragraph 44 of the Plaintiff's Complaint.

45. PNC denies the allegations contained in paragraph 45 of the Plaintiff's Complaint.

46. PNC denies the allegations contained in paragraph 46 of the Plaintiff's Complaint.

47. PNC denies the allegations contained in paragraph 47 of the Plaintiff's Complaint.

WHEREFORE, PNC requests that Judgment enter in its favor and that the Plaintiff's Complaint should be dismissed.

**COUNT II  
CLAIM FOR INJUNCTIVE RELIEF AND A PRELIMINARY  
AND PERMANENT INJUNCTION**

48. PNC repeats and reavers the responses to Paragraphs 1 through 47 as if set forth fully herein.

49. PNC denies the allegations contained in paragraph 49 of the Plaintiff's Complaint.

50. PNC denies the allegations contained in paragraph 50 of the Plaintiff's Complaint.

51. PNC denies the allegations contained in paragraph 51 of the Plaintiff's Complaint.

52. PNC is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 52 of the Plaintiff's Complaint.

53. PNC denies the allegations contained in paragraph 53 of the Plaintiff's Complaint.

54. PNC can neither admit nor deny the allegations contained in paragraph 54 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

55. PNC denies the allegations contained in paragraph 55 of the Plaintiff's Complaint.

56. PNC can neither admit nor deny the allegations contained in paragraph 56 of the Plaintiff's Complaint as it calls for a legal conclusion; to the extent that a response is required, PNC denies the allegations.

WHEREFORE, PNC requests that Judgment enter in its favor and that the Plaintiff's Complaint should be dismissed.

### **COUNT III DECLARATORY JUDGMENT**

57. PNC repeats and reveals the responses to Paragraphs 1 through 56 as if set forth fully herein.

58. PNC can neither admit nor deny the allegations contained in paragraph 58 of the Plaintiff's Complaint as it calls for a legal conclusion.

59. PNC denies the allegations set forth in paragraph 59 of the Plaintiff's Complaint.

60. PNC denies the allegations set forth in paragraph 60 of the Plaintiff's Complaint.

61. PNC denies the allegations set forth in paragraph 61 of the Plaintiff's Complaint.

WHEREFORE, PNC requests that Judgment enter in its favor and that the Plaintiff's Complaint should be dismissed.



**AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

PNC denies each and every allegation of Breach of Contract as alleged against it in Plaintiff's Complaint.

**SECOND DEFENSE**

The Plaintiff has failed to fulfill all conditions precedent to filing her Complaint and thus the Complaint should be dismissed.

**THIRD DEFENSE**

The Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**FOURTH DEFENSE**

By way of affirmative defense, PNC states that service of process was deficient.

**FIFTH DEFENSE**

PNC states that it has fully performed all promises and obligations imposed upon it and thus the Plaintiff's Complaint should be dismissed.

**SIXTH DEFENSE**

By way of affirmative defense, PNC states that the Plaintiff breached the terms and conditions of the agreement or contract alleged in the Plaintiff's Complaint and that therefore, the Plaintiff cannot recover.

**SEVENTH DEFENSE**

Plaintiff's Complaint fails to state a claim against PNC upon which relief can be granted in that PNC has no obligation to pay the Plaintiff any amount of the loss or damage alleged.

**EIGHTH DEFENSE**

By way of affirmative defense, PNC states that the contract or agreement alleged in the Plaintiff's Complaint was terminated, and that therefore, the Plaintiff cannot recover.

**NINTH DEFENSE**

The claims set forth in the Complaint are wholly insubstantial, frivolous, and not advanced in good faith and Defendant, therefore, requests counsel fees and other costs and expenses incurred in defending these claims.

**TENTH DEFENSE**

The Plaintiff has failed to mitigate, minimize or avoid damages, if any, alleged in the Plaintiff's Complaint; accordingly, any recovery must be reduced by the amount of damage resulting from such failure.

**ELEVENTH DEFENSE**

By way of affirmative defense, Defendant states that the action is barred by laches.

**TWELFTH DEFENSE**

By way of affirmative defense, PNC states that the Plaintiff is are barred by the applicable statute of frauds.

**THIRTEENTH DEFENSE**

Defendant reserves the right to assert additional affirmative defenses as determined applicable through discovery.

Respectfully submitted,

PNC BANK, NATIONAL ASSOCIATION,  
By its attorney,

/s/ Shanna Boughton

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Dated: June 7, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on June 7, 2018, a true copy of the within was filed and served through the electronic filing system on the following:

John B. Ennis, Esq.  
1200 Reservoir Avenue  
Cranston, RI 02920  
(401) 943-9230  
Jbelaw75@gmail.com

/s/ Shanna M. Boughton  
Shanna M. Boughton